

1 the defendant's involvement in the conspiracy. The government introduced
2 testimony from Raymond Pedroza. Pedroza testified that the defendant
3 attempted to entice him to rob a postal carrier for several months prior
4 to January 2008. Pedroza testified that the defendant asked him if he
5 could trust the Soliz brothers. Pedroza testified that in late December
6 2007, he observed the defendant approach Johnny Angel Soliz and Mike
7 Soliz. Pedroza testified that at that time, the defendant asked the Soliz
8 brothers if they were interested in making fast money. Pedroza testified
9 that the Soliz brothers expressed an interest. Pedroza testified that he
10 then heard the defendant make a proposal concerning the robbery in
11 question. Pedroza testified that the proposal concerning the robbery was
12 the same information the defendant had relayed to him in their prior
13 conversations.
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15 The government further argues that Pedroza also testified that he
16 had completed vehicle body work for the defendant prior to the robbery.
17 Pedroza testified that he asked the defendant for his pay. Pedroza
18 testified that the defendant told him that if he wanted his money that
19 he had to participate in the robbery. Pedroza also testified that prior
20 to the robbery he was approached by the defendant's co-conspirator. At
21 that time, Johnny Soliz, the defendant's co-conspirator, asked Pedroza
22 for a gun and a car. Pedroza testified that just prior to the robbery,
23 Johnny Soliz advised him of details concerning the robbery. In addition,
24 the government offered the defendant's own words concerning the robbery.
25

26 On July 18, 2008, and August 16, 2008, Pedroza met with the

1 defendant. During those meeting, Pedroza wore a hidden recording device.
2 During those meetings, the defendant made several inculpatory statements
3 concerning the robbery. Among the several inculpatory statements, the
4 defendant stated that the robbery was "supposed to be a clean sweep," and
5 that Pedroza "guaranteed" Johnny Soliz.

6 Finally, the government asserts that it also introduced
7 circumstantial evidence concerning the robbery. The government produced
8 two witnesses who testified that the defendant expressed anger due to his
9 termination from the postal service. During cross-examination, the
10 defendant admitted that he told Diane White that the postal service would
11 be sorry for terminating him. The government introduced evidence that the
12 defendant was familiar with the route in question, and was one of a few
13 individuals who was aware of intimate details which were required to
14 successfully complete the robbery.
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16 The Court finds Defendant's arguments unconvincing. First, the
17 Court finds that the government did introduce at trial both direct and
18 circumstantial evidence concerning the conspiracy. The government
19 offered testimony from Pedroza concerning a meeting where the defendant
20 proposed the robbery to the Soliz brothers. Second, the government
21 offered testimony from Pedroza that the defendant instructed him to
22 participate in the robbery if he wanted to be paid for his work on
23 vehicles. Third, the government offered the defendant's own statements
24 concerning the robbery.
25

26 To establish conspiracy, the government must show: (1) an

1 agreement; (2) to engage in criminal activity; and (3) one or more overt
2 acts in furtherance of the conspiracy. *United States v. Wright*, 215 F.3d
3 1020, 1028 (9th Cir. 2000). To prove a conviction for conspiracy, the
4 government must establish that the defendant had knowledge of the
5 conspiracy and acted in furtherance of it. *United States v. Zakharov*,
6 468 F.3d 1171, 1180 (9th Cir. 2006). The government need not prove
7 knowledge with direct evidence. *Wright*, 215 F.3d at 1028.
8 Circumstantial evidence and the inferences drawn from that evidence can
9 sustain a conspiracy conviction. *Id.* The Court finds that the government
10 offered evidence of a conspiracy. Because the jury verdict is supported
11 by substantial evidence in the record, the Court finds defendant's motion
12 for judgment of acquittal cannot be granted. Based on the foregoing,
13 Defendant's Motion For judgment of Acquittal Pursuant to FRCP 29, **Ct.**
14 **Rec. 189**, is **DENIED**.

15
16 **IT IS SO ORDERED.** The District Court Executive is directed to
17 enter this order and to provide copies to all counsel.

18 **DATED** this 5th day of June, 2009.

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20 *s/Lonny R. Suko*

21 _____
22 LONNY R. SUKO
23 UNITED STATES DISTRICT JUDGE
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